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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,685	01/11/2002	Peter Ar-Fu Lam	B7HTAG	9707
7590 Peter Ar-Fu Lam 20104 Wayne Ave. Torrance, CA 90503			EXAMINER FIDEI, DAVID	
			ART UNIT 3728	PAPER NUMBER
DATE MAILED: 03/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/044,685	LAM, PETER AR-FU 	
	Examiner	Art Unit	
	David T. Fidei	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-6 and 8-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-21 is/are allowed.
- 6) ☒ Claim(s) 1,4 and 22-24 is/are rejected.
- 7) ☒ Claim(s) 5-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Construction

1. In analyzing applicant's invention as set out in the pending claims, the examiner sets forth the following to aid in understanding the application of the prior art herein. Claims are to be given their broadest reasonable interpretation during prosecution, see *In re Priest*, 582 F.2d 33, 37 199 USPQ 11, 15 (CCPA 1978), and limitations from the specification will not be read into the claims, see, e.g. *In re Prater*, 415 F.2d 1393, 1404-1405, 162 USPQ 541, 550-51 (CCPA 1969), see § MPEP 2106.

A display area "for displaying sales information related to said garment hanger" is recited in claim 1 that is of not patentable distinction. In order to further limit the claim there must be some distinction based upon the intended use recited. "However, in apparatus, article, and composition claims, intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art, see M.P.E.P. § 2111.02 THE INTENDED USE MAY FURTHER LIMIT THE CLAIM IF IT DOES MORE THAN MERELY STATE PURPOSE OR INTENDED USE. The examiner can see no structural differences between the claimed invention and the prior art based upon the intended use recited. Any of the tag display material vertically above the one or both of the supporting arms can be used for displaying sales information related to said garment hanger.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Harmer et al (Patent no. 5,135,141). A garment hanger retail package is disclosed comprising: at least one garment hanger 10 having a suspension member 12 and two support arms 16, 18 extending from opposite directions of said suspension member for supporting a garment; and a display tag 22 having a display area 26 positioned substantially vertically above one or both of said supporting arms for displaying sales information related to said garment hanger, see figures 1-3.

4. Claims 1, 4, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Markman (Patent no. 5,962,834). A garment hanger retail package is disclosed comprising: at least one garment hanger having a suspension member and two support arms (not numbered) extending from opposite directions of said suspension member for supporting a garment; and a display tag 10 having a display area 12 (or any other portion) positioned substantially vertically above one or both of said supporting arms for displaying sales information related to said garment hanger.

As to claim 4, the display tag 10 further comprising a flap 14 having a hole 16A for engaging the suspension member of said garment hanger.

As to claim 23, a display tag positioned behind said garment hanger enabling said retail package to display a full frontal view of said garment hanger depends upon the perspective as the hanger of figure 1 can be rotated 180 degrees.

5. Claims 1, 4 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Rahmey (Patent no. 6,209,763). A garment hanger retail package is disclosed comprising: at least one garment hanger 40 having a suspension member and two support arms 42, 44 extending from opposite directions of said suspension member for supporting a garment; and a display tag 60 having a display area 62 positioned substantially vertically above one or both of said supporting arms for displaying sales information related to said garment hanger.

As to claim 4, the display tag further comprises a flap defined by folded section 70 having a hole 72, see figure 4.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Markman (Patent no. 5,962,834). The difference between the claimed subject matter and Markman resides in the attaching means are defined by one or more fasteners having a color similar to the color of said garment hanger. Dictionary.com defines a fastener as restraint that attaches to something or holds something in place which is met by the grommet 16 of Markman. However, the relative colors of the grommet and garment hanger are not disclosed.

However the particular color is of no patentable significance because the particular shape fails to solve any stated problem or is for any particular purpose. Accordingly, it would have been obvious and well within the level of ordinary skill in the art to construct the fastener and garment hanger of any color desired, for the reason that such a change is of no criticality and would have merely been a matter of design choice.

Allowable Subject Matter

8. Claims 5, 6, 8, 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 10-21 are allowed.

REPLY BY APPLICANT OR PATENT OWNER TO THIS OFFICE ACTION

10. “In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to every ground of objection and rejection in this Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. The applicant’s or patent owner’s reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. The reply must be reduced to writing (emphasis added)”, see 37 CFR 1.111 (b) & (c), M.P.E.P. 714.02.

Pointing out specific distinctions means clearly indicating in the written response what features/elements or distinctions have been added to the claim/claims, where support is found in the specification for such recitations and how these features are not shown, taught, obvious or inherent in the prior art.

If no amendments are made to claims as applicant or patent owner believes the claims are patentable without further modification, the reply must distinctly and specifically point out the supposed errors in the examiner’s action and must respond to every ground of objection and rejection in the prior Office Action in the same vain as given above, 37 CFR 1.111 (b) & (c), M.P.E.P. 714.02.


The examiner also points out, due to the change in practice as affecting final rejections, older decisions on questions of prematureness of final rejection or admission of subsequent amendments do not necessarily reflect present practice. “Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant’s amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c)” (emphasis mine), see MPEP 706.07(a).

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Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fidei whose telephone number is (571) 272-4553. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David T. Fidei
Primary Examiner
Art Unit 3728

dtf
March 15, 2005